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Senate

(Legislative day of Monday, October 19, 2020)

The Senate met at 12 noon and was called to order by the Honorable JOHN KENNEDY, a Senator from the State of Louisiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal King, You are great and marvelous. You alone are God. Without Your wondrous deeds, our Nation and planet could not survive. You continue to perform wonders on our behalf, rescuing us from ourselves.

Lord, teach our lawmakers Your precepts so that they may walk in Your truth, experiencing the reverential awe that comes when You are near. Provide them with the inspiration and knowledge that will bring peace and stability to our land. May we not conceal our sins but confess and forsake them. Sovereign God, keep our Senators on the path of wisdom.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. GRASSLEY).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 23, 2020.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN KENNEDY, a Senator from the State of Louisiana, to perform the duties of the Chair.

CHUCK GRASSLEY,
President pro tempore.

Mr. KENNEDY thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

LEGISLATIVE SESSION—Motion to Proceed

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. SCHUMER. I suggest the absence of a quorum.

QUORUM CALL

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered their names:

[Quorum No. 2 Ex.]

Alexander	Cotton	Hawley
Barrasso	Cramer	Hyde-Smith
Blackburn	Crapo	Inhofe
Blunt	Cruz	Johnson
Boozman	Daines	Kennedy
Braun	Enzi	Lankford
Burr	Ernst	Lee
Capito	Fischer	Loeffler
Cassidy	Gardner	McConnell
Collins	Graham	McSally
Cornyn	Grassley	Murkowski

Paul	Rubio	Thune
Perdue	Sasse	Tillis
Portman	Schumer	Toomere
Risch	Scott (FL)	Wicker
Roberts	Scott (SC)	Young
Romney	Shelby	
Rounds	Sullivan	

The ACTING PRESIDENT pro tempore. A quorum is present.

VOTE ON MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

RECOGNITION OF THE MINORITY LEADER

The Democratic leader is recognized.

NOMINATION OF AMY CONEY BARRETT

Mr. SCHUMER. Mr. President, the Republicans, as we all know and as the Nation knows, are running the most partisan, most hypocritical, and least legitimate process in the history of Supreme Court nominations. That is why I suggested the absence of a quorum. We are not going to have business as usual.

I yield the floor.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER), the Senator from California (Ms. HARRIS), the Senator from Alabama (Mr. JONES), and the Senator from Arizona (Ms. SINEMA) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—53

Alexander	Burr	Cramer
Barrasso	Capito	Crapo
Blackburn	Cassidy	Cruz
Blunt	Collins	Daines
Boozman	Cornyn	Enzi
Braun	Cotton	Ernst

• This “buller” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Fischer	Loeffler	Rubio
Gardner	McConnell	Sasse
Graham	McSally	Scott (FL)
Grassley	Moran	Scott (SC)
Hawley	Murkowski	Shelby
Hoeven	Paul	Sullivan
Hyde-Smith	Perdue	Thune
Inhofe	Portman	Tillis
Johnson	Risch	Toomey
Kennedy	Roberts	Wicker
Lankford	Romney	Young
Lee	Rounds	

NAYS—43

Baldwin	Heinrich	Sanders
Bennet	Hirono	Schatz
Blumenthal	Kaine	Schumer
Brown	King	Shaheen
Cantwell	Klobuchar	Smith
Cardin	Leahy	Stabenow
Carper	Manchin	Tester
Casey	Markley	Udall
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warren
Durbin	Murray	Whitehouse
Feinstein	Peters	Wyden
Gillibrand	Reed	
Hassan	Rosen	

NOT VOTING—4

Booker	Jones
Harris	Sinema

The motion was agreed to.
The ACTING PRESIDENT pro tempore. The majority leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 890 and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The Democratic leader.

Mr. SCHUMER. Mr. President, now, I believe the Senate majority is on the precipice of making a colossal and historic mistake. By rushing this nomination through the Senate only 8 days before a national election, after 50 million Americans have already voted, the Republican majority is steering the Senate, the Supreme Court, and the country in a very dangerous direction. The damage to Americans' faith in these institutions could be lasting.

So before we go any further, we should shut off the cameras, close the Senate, and talk face-to-face about what this might mean for the country.

We need to restore public trust in our institutions, not continue to undermine it. The Senate majority may have the power to confirm this nomination before the election, but that does not make it right. Might does not make it right.

We ought to have a candid conversation, Senator-to-Senator, in which we truly listen to each other before it is too late. So I am making a motion to move to closed session.

MOTION TO GO INTO CLOSED SESSION

Mr. SCHUMER. Mr. President, in accordance with rule XXI, I now move that the Senate go into closed session.

The ACTING PRESIDENT pro tempore. Is there a second?

Mr. DURBIN. I second the motion.

The ACTING PRESIDENT pro tempore. The motion having been made and seconded, the Senate will go into closed session.

The Chair, pursuant to rule XXI, now directs the Sergeant at Arms to clear all Galleries, close all doors of the Senate Chamber, and exclude from the Chamber and its immediate corridors all employees and officials of the Senate who, under the rule, are not eligible to attend the closed session and who are not sworn to secrecy.

The question is not debatable.

Pursuant to rule XXIX, I authorize the Secretary's desk staff and her Deputies and the Assistant Secretaries for the majority and minority to remain in the Chamber during the closed session.

The doors will be closed.

People who are not authorized to be here will please leave the Chamber.

(At 12:55 p.m., the doors of the Chamber were closed.)

(At 1:15 p.m., by a vote of 53 to 44, the doors of the Chamber were opened, and the open session of the Senate was resumed.)

VOTE ON MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. The question is on the motion to proceed to executive session to consider Calendar No. 890, the nomination of Amy Coney Barrett to be an Associate Justice of the Supreme Court of the United States.

The yeas and the nays were previously ordered.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS), the Senator from Alabama (Mr. JONES), and the Senator from Arizona (Ms. SINEMA) are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote or change their vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—51

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoeven	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Johnson	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Shelby
Cramer	Lee	Sullivan
Crapo	Loeffler	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Paul	Young

NAYS—46

Baldwin	Cardin	Duckworth
Bennet	Carper	Durbin
Blumenthal	Casey	Feinstein
Booker	Collins	Gillibrand
Brown	Coons	Hassan
Cantwell	Cortez Masto	Heinrich

Hirono	Murphy	Stabenow
Kaine	Murray	Tester
King	Peters	Udall
Klobuchar	Reed	Van Hollen
Leahy	Rosen	Warner
Manchin	Sanders	Warren
Markley	Schatz	Whitehouse
Menendez	Schumer	Wyden
Merkley	Shaheen	
Murkowski	Smith	

NOT VOTING—3

Harris	Jones	Sinema
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The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The legislative clerk read the nomination of Amy Coney Barrett, of Indiana, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. The majority leader.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Amy Coney Barrett, of Indiana, to be an Associate Justice of the Supreme Court of the United States.

Mitch McConnell, John Thune, Joni Ernst, Cindy Hyde-Smith, Marsha Blackburn, Roy Blunt, Shelley Moore Capito, Roger F. Wicker, Lindsey Graham, David Perdue, Chuck Grassley, James M. Inhofe, Tom Cotton, John Hoeven, Mike Crapo, Richard Burr, Lamar Alexander, Ben Sasse.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MCCONNELL. Mr. President, colleagues, in my first experience with Supreme Court confirmations in the Senate, I was a young staffer for a junior Member of the Judiciary Committee. That was also the same time I met a young guy named LAMAR ALEXANDER, who had just left the Senate to go to the White House to work in Congressional Affairs. So I have had an opportunity for quite a long time to observe the confirmation process through various ups and downs—periods when nominees were confirmed almost overwhelmingly and periods during which they were heated, to put it mildly, contests over the nomination.

What I think you can safely say about the Senate over the last 40 or 50 years is that it is in an assertive period. In other words, viewing the whole process as a joint thing, the President has a role to play, and the Senate has a role to play. And at various times in the history of our country, the Senate has been pretty passive about it; at